IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8413 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE RAVI R.TRIPATHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

R M JANI

Versus

GUJARAT AGRO-INDUSTRIES CORP LTD

Appearance:

1. Special Civil Application No. 8413 of 1990

MR BP TANNA for Petitioner No. 1

MR KN RAVAL for Respondents No. 1-4

MS PJ DAVAWALA for Respondent No. 1

CORAM : MR.JUSTICE RAVI R.TRIPATHI

Date of decision: 22/10/2001

ORAL JUDGEMENT

The present petition is filed by one Mr.R.M. Jani, Assistant Manager, who was serving with the Gujarat

Agro Industries Corporation Limited (hereinafter referred to as "the respondent Corporation"). The petition is filed to challenge the order of dismissal dated 8.10.1990, a copy of which is at Annexure 'N'. The case of the petitioner is that the petitioner was appointed as Clerk in 1977 in the respondent Corporation. In 1985 the petitioner got promotion as Assistant Accountant. Thereafter looking to his meritorious service record, he was promoted to the post of Assistant Manager (AS) in November 1986. It is also the case of the petitioner that during his 13 year service with the respondent Corporation there was nothing adverse in his service record. In the petitioner's words his service was 'clean and spotless'. The case of the petitioner is that it was in the year 1989 that for the first time the petitioner was served with two charge sheets. The first one dated 27.1.1989, a copy of which is at Annexure 'A' and the petitioner was put under suspension on the same day, i.e. 27.1.1989. The petitioner has replied on 8.2.1989 to the above charge sheet. In the reply the petitioner has submitted that when he was posted at the Dabhoi Centre, said centre was making loss to the tune of Rs.47,500/-. It was only after the petitioner's resuming charge at the above centre, said centre started earning profit to the tune of Rs.2,85,000/-, per year. Inquiry was conducted and thereafter the petitioner was served with the second show cause notice dated 5.7.1990 along with the Inquiry Officer's report to which the petitioner field a reply by letter dated 27.7.1990, which is at Annexure 'L' to the petition.

2. Learned advocate for the petitioner vehemently submitted that the petitioner is victimised on account of he being a man from outside Dabhoi as he has replaced one Mr.K.H. Shah, who was a local man from Dabhoi. Learned advocate also submitted that said Mr.K.H. Shah was made writer of the Inquiry Officer and that he could see to it that the inquiry proceeds in a way he wanted to. The main charges against the petitioner as is mentioned in the 1st Charge Sheet are as under:

> "(1) As per the normal practice you were supposed to keep in operation one gate pass book at a time for making entries in respect of material sent outside the premises of Agro Service Centre, Dabhoi. However, you have intentionally used two gate pass books simultaneously, i.e. one having sr. no.4601 to 4700 for regular use and the other from sr. no.9101 to 9200 for the purpose of misappropriation of stocks and by gate pass

no.9105 you removed the iron bars. You never allowed any entry with regard to the said gate pass or other passes in record under you used from that book. Further you removed evidence of the said gate pass book.

(2) The gate pass book bearing no.9101 to 9200 have been intentionally misplaced and reported lost. It is also transpired that around 15 gate passes were issued in the said gate pass book which were not accounted in the books of accounts.

(3) The stock register of GI pipe for the year 1988 maintained at Agro Service Centre, Dabhoi shows that in gate pass no.9105 issued from Agro Service Centre, Dabhoi, 64 nos. of 1 m. dia GI pipes were issued whereas from the Octroi Receipt No.9957 dated 20.4.1988 of Yamuna Mill Naka, Dabhoi Road shows that GI pipes and iron bars were passed through for which octroi charges of Rs.104/-, (Rupees one hundred four only) was paid. Those materials were issued in the name of M/s Impal Plast & Engg. Works, Baroda. Accordingly, you have misappropriated the iron bars for which no records were maintained at Agro Service Centre, Dabhoi.

(4) Invoice No.233 of M/s Impal Plast & Engg. Works, Baroda were allegedly prepared and forged as per your instruction in the name of Gujarat Agro Industries Corp Ltd. through Shri F.M. Parmar, Clerk, ASC, Dabhoi. The signatures of the authorised person, i.e. proprietor/ owner of M/s Impal Plast & Engg. Works, Baroda were also forged through Shri Parmar as per your instruction to fabricate the supply of materials. Accordingly, through your subordinate you have manipulated and committed forgery.

(5) You have forced Shri F.M. Parmar, Clerk to prepare certificate for payment and used forged documents in your knowledge as genuine and got payment on forged invoice no.233 & 242 thereby you have misappropriated and cheated you employer, i.e. Gujarat Agro Industries Corporation Ltd.

(6) Under the Statutory provisions of Weights & Measurements, it is required to periodically verify and certify the weighing machines through

> the concerned authority. However, you have not complied with the above statutory provisions, instead, materials/ stocks required to be issued in weight were issued in terms of numbers and thus created surplus materials for your misappropriation and cheating the Corporation."

In the second charge sheet three additional charges were also levelled against the petitioner.

3. The Court perused the Inquiry Officer's report in detail and also the reply filed by the petitioner to the said inquiry report. The Court did not find any ground on which the said Inquiry Officer's report can be disbelieved, nor any ground on which the order of dismissal passed against the petitioner can be interfered with.

4. The order of dismissal is at page 143, Annexure 'N' wherein the Managing Director of the respondent Corporation did grant personal hearing to the petitioner and concluded that the allegations of dishonesty, misappropriation and fraud levelled against the petitioner were found to be proved and the same are of very serious nature. Therefore, the Managing Director as the competent authority of the respondent Corporation, in exercise of powers vested in him, has dismissed the petitioner.

5. There being no substance, the petition is dismissed with no order as to costs. Rule is discharged. Interim relief, if any, stands vacated.

(Ravi R. Tripathi, J.)

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